

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Semitec, a California Corporation
d.b.a. K & S Semitec
3025 Stender Way
Santa Clara, California 95051
(Santa Clara County)

ID No. CAD 076 311 661

Respondent.

Docket No. HWCA20030387

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control ("Department") and Semitec Corporation, a California Corporation, d.b.a. K & S Semitec ("Respondent") enter into this Consent Order and agree as follows:

1. Respondent operates a facility which manufactures dicing saw blades for use in the assembly of semi-conductors. As part of its manufacturing process, Respondent generates and treats hazardous waste at 3025 Stender Way, Santa Clara, California 95054-3216 ("Site") in Santa Clara County, California. Respondent generates the following hazardous wastes: metal-and-cyanide-bearing rinse waters from electroplating operations, metal-bearing waste residues from onsite waste water treatment, corrosive waste, waste lubricating oil, and waste residue from waste water treatment.

2. Respondent uses pH neutralization, precipitation of metals, filter presses and gravity sedimentation to treat its hazardous metal-bearing wastes. Metal-

bearing residues from waste water treatment are transferred to a permitted offsite facility for treatment and treated water is discharged to the sewer. Respondent also uses sodium hypochlorite to treat cyanide-bearing waste on-site.

3. The Department inspected the Site on August 6, 2003.

4. As a result of its inspection, the Department alleges the following violations:

4.1. Respondent violated Health and Safety Code section 25200.3(c)(4), and the California Code of Regulations, Title 22, section 66265.192, by failing to obtain and possess a written tank assessment reviewed and certified by an independent, qualified professional engineer, attesting that all hazardous waste tanks and ancillary equipment installed and operated at the Site have sufficient structural integrity and are acceptable for transferring, storing and treating of hazardous waste, prior to placing the tanks in service.

4.2. Respondent violated the California Code of Regulations, Title 22, section 66265.193(c)(4), by failing to remove a significant quantity of liquid waste in its secondary containment for two hazardous waste tanks.

4.3. Respondent violated the California Code of Regulations, Title 22, section 66265.35, by failing to maintain adequate aisle space in the waste treatment area of the Site. On the day of the inspection, aisles around areas where hazardous wastes are treated and access to the emergency eye wash station were blocked.

4.4. Respondent violated the California Code of Regulations, Title 22, section 66265.14, by failing to provide adequate security in its treatment area, to minimize the possibility of unauthorized entry into a hazardous waste treatment and

storage area where hazardous wastes, including hazardous cyanide-bearing wastes are managed.

4.5. Respondent violated the California Code of Regulations, Title 22, section 66262.34, subdivision (f), by failing to correctly and adequately label two tanks used to manage hazardous cyanide-bearing waste with information identifying the hazardous characteristics of the waste.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent admits the violations described above in 4.1 (failure to obtain written tank assessment), 4.4 (failure to minimize threat of unauthorized entry), and 4.5 (failure to correctly label two waste tanks), but does not admit the remaining violations alleged.

SCHEDULE FOR COMPLIANCE

10. Respondent certifies that it has corrected all of the above violations, addressed the circumstances which gave rise to the violations, and instituted new practices to ensure the violations will not occur in the future. Respondent must continue to comply with the California Health and Safety Code and specifically with the provisions cited herein. In addition, Respondent shall meet the following conditions:

10.1. Respondent shall not intentionally introduce any waste into the secondary containment for the hazardous waste tanks.

10.2. Respondent shall use the secondary containment areas for the hazardous waste tanks only to prevent the accidental or unplanned release to the environment in the event of the failure of the hazardous waste tanks or piping; and shall promptly, and within 24 hours, remove any waste.

10.3. Respondent shall maintain adequate aisle space in its waste treatment area. Adequate aisle space is defined by the California Code of Regulation, Title 22, section 66265.35 as enough space to allow unobstructed movement of personnel and fire protection equipment, or any greater clearance required by local ordinance.

11. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
8800 Cal Center Drive
Sacramento, California 95826-3200

Mr. David Parker, Hazardous Materials Administrator
City of Santa Clara Fire Department
1675 Lincoln Street
Santa Clara, California 95050.

11.1. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent

shall alter this agreement or be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

11.2. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

11.3. Endangerment During Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the Site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

11.4. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions in accordance with applicable law as are necessary to protect public health or welfare or the environment.

11.5. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

11.7. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

11.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 15, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

11.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

PAYMENTS

12.1. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$68,500 in penalties. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806.

12.2. A photocopy of the check shall be sent:

12.2.1. To: Mr. Charles A. McLaughlin, Branch Chief

State Oversight and Enforcement Branch
Statewide Compliance Division
8800 Cal Center Drive
Sacramento, California 95826-3200

12.2.2. To: Ms. Vivian Murai, Staff Counsel
Office of Legal Counsel & Investigations
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

12.2.3. To: Ms. Jamie Jefferson
Deputy Attorney General
Department of Justice
Office of the Attorney General
P.O. Box 70550
Oakland, California 94612.

12.3. Respondent agrees to send at least two (2) employee(s), at least one (1) of whom is a manager or supervisor of Respondent's hazardous waste operations, to California Compliance School Modules I-V, inclusive. Because Respondent plans to cease operations at the Site, Respondent may satisfy this requirement in part through attendance by one (1) person, comparably employed at an alternative California facility operated by Respondent.

12.3.1. Attendance must be completed and Respondent must submit a Certificate of Satisfactory Completion for each employee issued by the California Compliance School to DTSC, as noted in paragraph 9.2 above, within 185 days of the date of this Order. In recognition of this educational investment, the total penalty imposed by this Order has been reduced by \$5,000 if both of the employee(s) specified above satisfactorily complete the specified modules and DTSC receives the Certificate(s) of Satisfactory Completion within 185 days of the effective date of this Order.

12.3.2. If Respondent fails to submit the certificate(s) as required, an additional penalty in the amount of \$5,000 is due and payable within 30 days after the

185-day period expires. The 185-day period may be extended by a DTSC Branch Chief upon a written request demonstrating good cause.

12.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

13. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

14. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

15. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

16. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

17. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

18. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: January 26, 2005

Original signed by C. Scott Kulicke
C. Scott Kulicke
CEO, President
Respondent, Semitec Corporation

Dated: February 4, 2005

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
Statewide Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control